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Letter dated 2 February 2001 from the Permanent Representative of Samoa to the United Nations addressed to the Secretary-General

On behalf of the Alliance of Small Island States (AOSIS), I have the honour to submit the final report of the AOSIS workshop on the Cartagena Protocol on Biosafety and Small Island Developing States that was held in Saint Kitts and Nevis from 4 to 6 December 2000 (see annex).*

The AOSIS countries would greatly appreciate it if the final report could be circulated as a document of the General Assembly agenda item 95 (b), entitled "Convention on Biological Diversity".

(*Signed*) Tuiloma Neroni **Slade**
Ambassador/Permanent Representative
Chairman of AOSIS

* The annex is being circulated in the language of submission only (English).

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Annex to the letter dated 2 February 2001 from the Permanent Representative of Samoa to the United Nations addressed to the Secretary-General

Report on the first workshop of the Alliance of Small Island States on the Cartagena Protocol on Biosafety and Small Island Developing States, Saint Kitts and Nevis, 4 to 6 December 2000

1. The first workshop of the Alliance of Small Island States (AOSIS) on the Cartagena Protocol on Biosafety and Small Island Developing States was held in Saint Kitts and Nevis from 4 to 6 December, 2000, under the auspices of the Government of Saint Kitts and Nevis. It was organized by the Alliance of Small Island States (AOSIS) in cooperation with the Division for Sustainable Development of the United Nations Department of Economic and Social Affairs (UNDESA). The workshop was generously sponsored by the Governments of Denmark, Norway, Switzerland and the United Kingdom, with the Secretariat of the Convention on Biological Diversity providing substantial travel support to a number of participants.

PROCEEDINGS

Opening session

2. The opening session of the workshop, held on 4 December and chaired by Mr. Elvis Newton, Permanent Secretary, Ministry of Health and Environment, Saint Kitts and Nevis, began with a blessing by the Reverend. Mr. Newton noted the importance of regional cooperation and introduced the Minister of Health and Environment of Saint Kitts and Nevis, His Excellency Dr. The Honorable Earl Asim Martin. The Minister expressed his pleasure at seeing so many participants from the Alliance of Small Island States and wished the participants a successful meeting. The Minister underscored the importance of AOSIS as the umbrella group of small island developing States (SIDS), and highlighted the need for SIDS to work together on all issues such as biosafety, in an effort to develop common solutions and the maximize the opportunities to learn from each other. He requested participants to further explore these critical issues in the course of the workshop. He added that AOSIS must continue its active engagement in the various international processes, and that the group should build up its core expertise to assist its Member States in related negotiations at the international level.

3. He was followed by His Excellency Dr. John W. Ashe, Ambassador and Deputy Permanent Representative of Antigua and Barbuda to the United Nations who spoke on behalf of the Chairman of AOSIS. He outlined some of the tasks that lay ahead for participants and stressed the importance of the cooperative spirit that has led AOSIS to make meaningful contributions to the international debate on sustainable development in general and biodiversity and biosafety in particular. He expressed the hope that the workshop would enhance the depth and knowledge of the issues for the participants and that they in turn would disseminate the knowledge gained to their colleagues who were unable to participate.

4. The Prime Minister of Saint Kitts and Nevis, His Excellency The Honorable Dr. Denzil Douglas delivered the feature address. The Prime Minister elaborated on his views on biotechnology, and reminded delegates of the long shadow that is cast by this new science. While public sensationalism may detract from the clear needs of

decision-makers, Governments have to keep the best interests of the people in mind. For this reason there is a great and urgent need for capacity building in Small Island Developing States as well as sharing of experiences. He was grateful that Saint Kitts and Nevis had been able to host the group, and officially opened the workshop. (The full statement by the Prime Minister will be available with the official documents)

Working Session 1

5. The session was chaired by Mr. Greg Sherley of the South Pacific Regional Environment Program (SPREP). The Chairman made some introductory remarks as to the purpose of the session, and then invited Mr. Espen Ronneberg, Inter-regional Advisor for Small Island Developing States (Division for Sustainable Development, United Nations Department for Economic and Social Affairs) to address the aims and objectives of the workshop. Mr. Ronneberg introduced some of the background to SIDS concerns regarding biosafety, as well as some of the cooperative progress that had been made in the international arena by SIDS. He highlighted some of the basic premises for the cooperation that the Alliance of Small Island States has set out in the Barbados Program of Action, and the efforts that the SIDS Unit was seeking to implement in support of these concerns. He also spoke about the possibilities of using SIDSNet as a tool in the further development of AOSIS positions and discussion papers, and how this could become inter-linked with the CBD biosafety clearing-house.

6. Ms. Kirsty McLean, Scientific and Technical Information Officer, Biosafety Unit, Secretariat of the Convention on Biological Diversity (CBD), introduced the participants to an overview of the contents of the Cartagena Protocol and how its provisions established certain rights and obligations, the bases for which were UNCED, Agenda 21, the Rio Declaration and the CBD. She highlighted the need to negotiate how the Protocol would be implemented, and that the workplan for the Intergovernmental Committee for the Cartagena Protocol has set in train a progressive discussion of the different issues in preparation for the entry into force. The work had taken a lot of effort through the negotiations so far, and it was gratifying that one Small Island Developing State had already ratified (Trinidad and Tobago). Ms. Mclean enumerated some of the key elements of the Protocol, namely its objective and scope, the advance informed agreement (AIA) provisions, the risk assessment issues and the consideration of socio-economic issues. The Protocol covers transboundary movement, transit and handling, but it does not cover pharmaceutical LMOs for humans that are addressed by other relevant international agreements or organizations. Under the provisions of the Protocol, the need to have national focal points, and national competent authorities assigned was noted. For SIDS it would clearly be necessary to work on capacity building, training in risk management and assessment, as well as on the decision making procedures. Communication and regional cooperation would also have great importance for SIDS. She discussed briefly the different agenda items for ICCP1, and enumerated the documents that participants should familiarize themselves with. ICCP would work on developing the agenda and the decisions to be put forward as soon as the Protocol enters into force and the first meeting of the Parties takes place.

7. The Chairman opened the floor for questions and comments. Cuba, Mauritius, Nauru, Fiji, Trinidad and Tobago, Antigua and Barbuda, Saint Kitts and Nevis and Jamaica made statements.

8. In the discussions the need to protect the special recognition given in the Protocol to SIDS was stressed. The support of the participants for a proposal to promote capacity building in SIDS was also raised. The pilot project instituted by the GEF and UNEP was a welcome start that should be continued. It was explained further that the biosafety pilot project had been a start, and that the extension is indeed in the pipeline, and stated that the subject would be discussed in greater details later. The involvement of the AOSIS leadership in the work on the Biosafety Protocol was welcomed. While individual SIDS and SIDS regions had played a part in the work so far, it was noted that it is now necessary to consolidate the efforts of SIDS as a group. The use of the terms GMO and LMO was discussed, since the terms are interchangeable. LMO was chosen early on in the negotiations as the term to use. National legislation would require to be changed in order to ratify the Protocol, so there would need to be some national implementing legislation. Whether there would need to be any changes would be determined by national circumstances, but in most instances, some additions or changes to existing national laws could be expected.

9. Questions were also raised as to why the AIA was limited to the first shipment of a particular LMO. It was explained that decisions made under this provision may be revisited in light of new information, but that for the time being such was the decision taken by the negotiations. The implications of not ratifying were discussed. All countries are at present open to introductions of LMOs, knowingly or not, so that the Protocol is the only recognized international protection available. Questions were raised about the apparent exclusion of feed, food and products (FFP) thereof, from the AIA process. For FFP there is a simplified procedure and not an outright exclusion. There may still be a need for domestic risk assessment of FFP, and decisions taken elsewhere on FFP would be disseminated through the BCH.

10. The implications of a failure to respond under the Protocol article 11, and the failure to communicate approval does not imply consent. A follow-up question on liability and redress was answered to the effect that these issues would be on the agenda for future ICCP meetings.

11. Obligations of Parties were discussed, and in spite of the provisions for support, will these be sufficient to assist the SIDS. It was stressed that much of that effort now lay with the negotiations at the ICCP. While numerous different expertise would be require for the complete implementation of the Protocol, there were clearly going to be gaps. Countries will have to start somewhere with the most immediate of their needs in terms of the implementation of the Protocol. This does not absolve countries from the total obligations, but consideration will be given to national circumstances and the ability to implement certain obligations.

12. Much information was gathered as a result of the UNEP-GEF pilot project, and attempt had been made to introduce country-based systems to allow authorities to consult with their stakeholders, and to develop initial legislation for the safe use of LMOs. The project also looked at finding the current status of use, import and export of LMOs, at any existing legislation, and to set in train a process of informed decision-making at the national level. It is expected that further issues will be raised in the next phase, to enable countries to do other tasks related to risk assessment, such as epidemiological studies. Above all, the need to ratify the Protocol was stressed.

Working session 2

13. The session was chaired by H.E. Ambassador Dr. John W. Ashe of Antigua and Barbuda. He invited Mr. Andrea Volentras, Legal Officer, SPREP, to make his presentation. After a brief introduction to the background of the Protocol, and the role of SPREP in environmental work in the Pacific, he spoke of the existing biosafety provisions to be found in the Pacific. In their consultations with the region SPREP discovered that there was no domestic biosafety legislation in place in any of the 14 independent Pacific Small Island Developing States. While Kiribati has legislation that mentions GMOs, this is raised in relation to development policies. Hence only an environmental impact assessment is required, and not the full AIA.

14. Mr. Volentras discussed the AIA provisions, as a stringent requirement applying only to a subset of LMOs, but not to FFP. The shipment of commodities containing LMOs and the labeling requirements foreseen at the international level, leaves a lot of work to be accomplished at the national level if full biosafety is to be accomplished. He also mentioned the listing of rights and obligations to be found in ICCP/4, but that there remains a lot of areas in which the SIDS will require assistance to address biosafety issues. The sheer lack of capacity will make it sensible to seek to synthesize the obligations and see what can perhaps be handled through regional cooperation. While we clearly could begin to appreciate the ranges of expertise needed, not all countries would be able to take on board many of these tasks.

15. In addressing national enabling activities, he stressed the need to involve all stakeholders in the development of national biosafety legislation. There are also model legislation papers available, but given the different situations of the SIDS it seems unlikely that these will adequately cover our needs. As a starting point, delegates were invited to look at the model legislation developed by the 3rd World Network, bearing in mind this caveat. This may then enable the countries to see what issues they would have to consider for inclusion in any national legislation. However, there may be situations where one would have to build on some existing provisions such as quarantine acts.

16. Trinidad and Tobago, Saint Lucia, Jamaica, Fiji, Grenada and Antigua and Barbuda made statements.

17. Participants discussed the obligations of other countries to observe your domestic standards. It was noted as a developing area, as there was still very little experience

with full observance of imports and exports into SIDS. There are many considerations that will be dealt with in the negotiations, and many issues that will have to be decided at the national level, such as the degree of liability. The question of whether strict domestic regulations would contravene the Protocol was raised, but as the Cartagena Protocol is a consensus document, it was for this reason that all provisions sought by SIDS were not included. There is nothing to stop countries from seeking to address what they consider Protocol loopholes through domestic action. Whether this will cause conflicts under the WTO is another matter. Some were of the view that this could be particularly applied in cases where a developed country may dispute the veracity of the risk and impact assessment carried out by a Small Island Developing State. The need for a minimum requirements menu in the discussions was raised, and it was agreed that perhaps capacity building, information sharing and assistance for targeted assessments may be the highest priorities for SIDS. Since it is likely that imports of LMOs are already occurring, in terms of domestic legislation import processes should be looked at first, then quarantine and use, and later on for manufacturing and export of LMOs. It will take a lot of national efforts. It is widely recognized that this will be a very great task, and one has to begin somewhere. The functions of the Cartagena Protocol should therefore be seen in that light – as a part of a progressive regime that will evolve over time. The relationship of the Protocol to the legal regime that may have been put in place to implement the Convention on Biological Diversity was discussed. While these are separate legal instruments, the Protocol is clearly linked to the CBD. Domestic provisions for the CBD should in all likelihood be brought into play in the implementation of the Protocol. For example, countries may choose to use the same focal points.

18. Greg Sherley, Science Officer, SPREP, made a presentation on some of the scientific considerations for SIDS in relation to the Protocol. He echoed the sentiments expressed earlier in the day by the Prime Minister of Saint Kitts and Nevis, that biosafety casts a long shadow. In his view, this shadow may be somewhat sinister, but it is not as well-defined as we require. There is a longer term generation risk that we are unable to determine. Risk assessment is a process where science should be at the center. Yet after years of study it is difficult to really determine how nature's cycles reinforce different phenomena. A clear statement of the cause and effect is not always possible. In considering the whole issue of biosafety there is the additional complication of science and technology issues being brought into question by legal provisions. Nevertheless it is very important to consider the quality of the science when determining these risks. The methodology of quarantine risk assessment is well documented and researched. It can be helpful to SIDS when considering risks, but it is expensive and time consuming. Further complications arise from the interaction of biotechnology with areas outside of human activities, and risks to native ecosystems will be very difficult to fully assess. The need to ask all the right questions was a hard-learned lesson from the age of biological control. Because one will have to look at such a large range of possible consequences, research and assessment will be a major undertaking for SIDS. Regional cooperation has worked in many other instances and may be the way to go for biosafety. But in biosafety there is the disadvantage of the quality of scientific advice available. There is a tendency to rely

on emerging "data-free reporting" and on information from the supplier. Independent advice is often non-existent. Protagonists for the technology are often involved in the promotion through such information sharing, which borders on being infomercials.

19. He questioned whether we are indeed able at this stage to really cover the range of questions associated with the types of unwanted effects that could arise from an LMO release – general, direct, indirect, or transgenic effects. It is likely that SIDS will have to institute changes in management procedures for import and possibly exports. While the precautionary principle can be utilized, it remains difficult to really ascertain how organisms will act in low-density tests vis-à-vis actual releases, especially in situations where due to proprietary considerations you may not have full information on the LMO in the first place.

20. In closing he stressed the need for AOSIS to bring in some practitioners in the field of risk assessment, and recommended that ERMA be invited to the next meeting.

21. Nauru, Mauritius, Tonga, Cook Islands, SPREP and UNEP made statements.

22. The discussions focused on the practical liability, since this is being put off by the negotiations. As AOSIS Members have the most to lose, have few resources and fragile ecosystems, SIDS have all the right to press for greater in-depth discussion of the whole liability issue. The capacity in SIDS for risk assessment had been found by the presenter to be very poor, and the SIDS examined were ill equipped to carry out. The discussion also appeared to consider LMOs as particularly more dangerous than invasive species, and it was suggested that many parallels could be drawn to those experiences. Most agreed that there were parallels, but that public perception and/or ignorance, combined with a lack of capacity to even properly assess invasive species give cause enough for concern over LMO releases. The need for sufficient legal and technical training, and whether this would be available under the Protocol was discussed. Parties must prepare appropriate recommendations in order for the ICCP to progress those sorts of issues. It will be up to SIDS to press for their concerns in this regard. Model legislation would assist SIDS in dealing with the sort of scientific and technical issues raised in the presentation, but capacity building was viewed as a necessary pre-requisite before looking at the possible legislative issues. Needs assessments and consideration of the status of LMO in the various SIDS could also be a useful start.

23. Kirsty Mclean, CBD Secretariat, made a presentation on some of the issues before the ICCP. There are five main areas on the agenda for the Montpellier meeting: information sharing, capacity building, handling, compliance and decision making. Information sharing has been allocated to a working group, and there is high priority in setting the stage for launching the Biosafety Clearing House (BCH). Handling will be considered from the point of view of looking at existing relevant rules and regulations, standards and the modalities for developing new international standards. Capacity building will be discussed after consideration of an indicative list of needs. In this regard there will also be a roster of experts discussion, where there will be a

need to get the various balances sorted out. The decision making paper focuses on procedures applied in other treaties, and by some countries. The elements for compliance also look at existing procedures, such as CITES and the Basel Convention.

24. Dr. Julian Kinderlerer, Program Coordinator on Biosafety, UNEP-GEF Coordination Office, United Nations Environment Program, presented some views on the terms of the Protocol and what countries will have to do. Having worked on the issue of biosafety since 1984 he had seen the problems that arose in Europe over LMOs, largely as a result of scare tactics. But when the polls show that over half the population is against the use of LMOs, then authorities have to take account of this. The attitudes are also different from region to region. It has been observed that while Europe may ask why do we need LMOs, the US may respond why not, and if anything goes wrong – sue me. In fact LMOs are being imported by most countries even today, for example soy beans or soy products from the US. Many questions need to be asked about these products, but the right to information is not so crystal clear. In a situation of imperfect information being available it becomes much more difficult to implement safety systems.

25. The precautionary principle is highly valued, yet it must be tempered by practical considerations and not taken to its logical extremes. While risks assessment is acknowledged as requiring a sound scientific basis, it is not so clear that all the scientific tools and information is actually available. An example given is that of oil seed rape. There is little scientific knowledge about the plant and its interactions to begin with, so it is very difficult to do any comparative studies. As a scientific exercise it is not entirely feasible. While a developed country like the UK has had an advisory body on science to discuss risk assessments in an integrated manner, through inter-action between different scientific disciplines, this can not be duplicated by countries with small capacities. SIDS will be severely disadvantaged. It must therefore be possibilities made available for using collective expertise among the SIDS.

26. Trinidad and Tobago, Grenada and Antigua and Barbuda made statements.

27. Actual occurrences of trade disputes were discussed. The situation in the UK is that the consumers are opposed, so the supermarkets are refusing to purchase LMO goods. This situation is no longer the responsibility of the Government, hence the WTO rules can not be applied punitively against the UK. There are legal protections available to countries that have not ratified the Protocol. While the Protocol does not prevent domestic legislation, clearly there has to be some international cooperation for smaller countries such as SIDS. This is likely to only be available through such mechanisms as the Protocol. Many felt that there had been an apparent shift in liability and responsibility to developing countries. While some operations have made new demands on developing countries, an example of tulip farming in Kenya under Netherlands auspices has benefited from an assumption by Netherlands of strict

liability acceptance. The need to have health risk assessments done combined with ecological risks, was seen as crucial.

28. Mr. Avani Vaish, GEF Secretariat, made a presentation on the initial GEF strategy for the implementation of the Protocol. He stressed that the GEF has gone through intensive consultations with the CBD and with Parties to the CBD. The situation requires that some capacity building be initiated early on, especially to build on the results of the pilot phase. Hence, after consulting with the implementing agencies, the Scientific and Technical Advisory Panel of the GEF, and with various experts, the GEF has received the approval by the GEF Council to proceed. The purpose will be to assist countries prepare for the entry into force of the Protocol. This will involve the promotion of information sharing at the regional and sub-regional levels, and to identify organizations that are able to assist with capacity building. It is also proposed to have country-based demonstrations through national biosafety frameworks. Coordination with other multilateral efforts will be important so as to make the capacity building dimension as strong as possible.

29. Questions were raised about the eligibility of national centers for information sharing for funding under this strategy. While much remains to be negotiated, it is quite possible that such national centers can receive some funding, depending on how the proposal is structured.

30. SPREP stated that the 26 million dollars allocated to the initial strategy did not seem like a lot, given the discussion on needs that had preceded the GEF presentation. While it was agreed that the needs were great, we had also agreed that first steps have to be taken. At least as an initial step, the GEF strategy will be in place, representing funding that is available now to any SIDS signatory to the Protocol.

31. Trinidad and Tobago and Tonga made statements.

32. Participants discussed the development of national biosafety frameworks and the possibility to cover legal requirements or legislation development. The GEF will seek to assist countries with their particular priorities for the Protocol. The funds can at this stage probably only start the process at the national level, and full legal implementation of the Protocol may be in the next phases of the project. It was also mentioned that the national environment budgets in most SIDS are very small, and that there will be a need to cooperate. Regional cooperative arrangements amongst SIDS should be eligible for funding.

Working session 3

33. Mr. Yiorgos Christofides, Permanent Mission of Cyprus to the United Nations chaired the session.

34. Dr. Julian Kinderlerer outlined the development of the UNEP/GEF biosafety project. It was acknowledged from the beginning that it would be impossible to put in place all the scientific and technical expertise required. However, the project sets out to put

in place the legal and consultative structures that would enable countries to say yes or no to import, export or use of LMOs. It was intended to at least provide the minimum, knowing full well that most countries had nothing in place, while some may have some phyto-sanitary regulations. There was also a wide variety of knowledge in the countries, needs are different, and it was assumed that each country would have to negotiate their particular arrangements with UNEP.

35. The project would arrange for a consultative framework and an information sharing process at the national level. It would provide for at least a minimum understanding of the principles of risk assessments. There would be acknowledgement that the scientific and technical expertise might be absent, so regional cooperation could be an option. The project will in short assist the preparation at the national level for the entry into force of the Protocol.

36. There will be two basic components to the project. The first is the promotion of regional and sub-regional cooperation and exchange in four major regions (Africa, Asia and Pacific, Latin America and Caribbean, and Eastern Europe). Sub-regions are to be defined, and it is possible that SIDS as an inter-regional entity could be considered. The second component would be national workshops, surveys (status of LMOs, legislation, expertise), awareness raising and legal harmonization.

37. The project could then assist with questions such as what is the most appropriate legal instrument for the national implementation, and what are the gaps that need to be filled to carry out risk assessment and risk management.

38. Trinidad and Tobago, Grenada, Nauru, Bahamas, Mauritius and Saint Lucia made statements.

39. Participants discussed the availability of scientific and technical advice. It was acknowledged that there was some available in most countries, but all countries would never be able to put in place a complete "set". There was also some misunderstanding that molecular biology was the only field in which expertise would be needed. The scope of biotechnology expertise encountered in the pilot phase so far was exemplified by Namibia, where there was a very open attitude by the Government, and the survey had found that there was no "modern" biotechnology in use. In Kenya, some medical biotechnology had been looked at, while China has reported on large tracts of LMO cotton. The possibility of establishing national legislation to reject importation of LMOs especially FFP was discussed. The requirements for the BCH to be kept updated on any FFP in circulation was noted. In theory any country could put in place such legislation, as long as sound reasoning is provided. The possibility of sanctions should not be ignored. Countries should consider the possibility of requesting risk assessments for FFP capable of germination. Regional efforts have been successful in the past, and clearly some expertise can be shared, such as medical doctors specializing in allergy studies, plant breeders and so on. When public opinion is strongly against a product, it would be very difficult for a Government to convince the populace of its safety. Governments

will have to make every effort to ensure the safety of products, and if this is not possible due to capacity constraints, the Government should not be sanctioned for this reason. The safety of products require numerous tests, but will be different for various products (eg. a pizza versus a soy bean). The project would hopefully be able to allow countries to include such specificity as commercial farming, to create a thorough package of information for the people. There is need to consider the rights associated with socio-economic considerations. Regional institutions have also been involved in regional cooperation on commercial farming issues, such as sugar cane, so there is a lot of untapped expertise for biosafety discussions.

40. A panel of the participants was then convened. Mr. Ken Chow Wing, Mauritius, explained how the national context had played a role in the implementation of the pilot project in Mauritius. The rapid loss of land, the changing terms of trade and many other factors are important. For this reason the authorities have decided to develop a set of comprehensive guidelines and a comprehensive law. They will utilize the Mauritius Sugar Industry Research Institute as the focal point, as this is the only recognized scientific institute available for the task.

41. Mr. Hector Conde Almeida, Cuba, outlined the chronology of the development of their legal framework on biosafety, starting as early as 1984. The Cuban Government has sought to combine the biosafety work with other aspects of biotechnology and safe use of biological agents. In their experience there are some basic steps to be taken to ensure appropriate capacity building.

1. The creation of institutions for risk assessment and risk management (regulatory bodies).
2. Training and development of human resources for these institutions.
3. Elaboration and approval of legislation.
4. Creation and development of national databases for information exchange.
5. Public awareness and active participation of community based organizations.
6. Improving coordination between regulatory body and other stakeholders.
7. Development of regional capacities for risk assessment and risk management, and for harmonization of standards, etc.
8. Development of regional, sub-regional and bilateral cooperation.

The Government of Cuba has suggested that SIDS work on seeking approval for using the experts training center in Cuba, and for seeking support for regional information exchange.

42. Mr. Andrea Volentras spoke about the work done by SPREP in preparation for ICCP, and offered to share the documentation with all participants. The work done on model legislation should not be seen as existing in a vacuum, since national circumstances requires further resolution. It was noted that there are few environmental lawyers in the Pacific capable of drawing the necessary linkages from science to legislation.

43. Trinidad and Tobago, Saint Lucia, Jamaica, Antigua and Barbuda, Saint Kitts and Nevis, Niue, made statements.

44. The relationship between industries and the national biosafety center in Cuba was discussed, as all the biotechnology industries were Government enterprises it makes such coordination easier. Tight cooperation is in effect, relying on all stakeholders to participate in the development and use of the national database for information exchange. The usage of regional expertise was noted, and assurances were given that regional projects would not displace national projects. As long as these would be complementary and not duplicating this would be acceptable. There could be a number of common components, with a menu approach to those to be chosen for national implementation. It was suggested that the group agree to have joint positions on these and other subject matters, and have them distributed at ICCP as common negotiating positions for AOSIS.

45. Many participants were pleased to hear that there was such expertise within the group, while it was noted that the sugar industries of the English-speaking Caribbean has been advised by the Governments to avoid LMO strains. Capacity building was discussed, using the example of Cuba, it was noted that there is a requirement for those officials involved to have ongoing training. There are workshops convened nationally every year, and it is mandatory to attend. Some surprise was expressed at the ability to provide such training, and some stated that this would be difficult to emulate. Stakeholder involvement was seen by the panel as being driven by national circumstances, which create different scenarios. It is important to reach as many citizens as possible, using combinations of the media available.

46. The workshop then convened in three working groups.

1. Information sharing, to be chaired by Janet Maki, Cook Islands.
2. Capacity building and decision making, to be chaired by Hector Conde Almeida, Cuba.
3. Handling, transport and packaging, to be chaired by Audia Barnett, Jamaica.

47. The working groups reported back on the final day, and the recommendations listed below were negotiated.

Closing session

48. The Closing session was chaired by the Minister of Health and Environment, His Excellency Dr. The Honorable Earl Asim Martin. He thanked the participants for their hard work. After a brief introduction by the secretariat, the Chairman asked if the recommendations could be adopted. It was unanimously agreed.

49. The Chairman invited Ambassador Ashe to say a few words of thanks to the participants, which he did.

50. The Secretariat thanked the Government of Saint Kitts and Nevis, the participants and the sponsors.

51. The Minister noted that the meeting had come to important conclusions, and recommended that this cooperation continue. After a brief closing statement, and statements from the floor from Nauru and Jamaica, he declared the workshop closed.

Recommendations

AOSIS views and general considerations on biosafety

1. Participants agreed that the potential benefits and the possible threats posed by modern biotechnology to SIDS creates a very difficult and unique scenario for SIDS as a group among developing countries. In reaffirming the principles of the Rio Declaration and the Barbados Declaration, participants recognized that special attention and care must be given to SIDS unique constraints, given their vulnerability to external shocks and relative dependence on certain imports and exports. Since SIDS are entirely or predominantly coastal entities, there is the potential to view SIDS as possible laboratory sites for controlled experimentation with field releases. Moreover, the lack of infrastructure, capacity, legislation and information in SIDS on current biotechnology experimentation and use raises concerns. In addition the fragility of the biodiversity in SIDS makes the risk management particularly difficult.
2. Participants recognized that SIDS that are unable to carry out detailed risk assessments at this stage should not be prevented from denying entry of LMOs into their territories under the pretext of trade considerations. The failure to communicate consent, or lack of consent, on the part of any AOSIS Member with few resources should not be construed as silent consent, and should not be held against that country. Many SIDS that are members of the WTO have particular concerns in this regard.
3. It was generally noted throughout the workshop that the capacity building needs of SIDS will be a very great challenge. While this issue would be addressed separately at the ICCP, it will remain a major preoccupation for the group for a considerable time. In this regard the 1st Workshop was welcomed as a valuable effort by AOSIS, supported by the Inter-regional Advisor for SIDS, SPREP, UNEP, GEF and the contributions of donor governments. It was recognized that these efforts must be continued and be further strengthened in support of AOSIS Members. The participants agreed to provide constructive comments on an ongoing basis on how best to improve on the cooperation. To facilitate this effort, there will be a designated AOSIS Biosafety discussion group, eventually on SIDSNet, to allow more facilitative interaction among the Members and their experts.
4. Participants discussed the merits and limitations of the Cartagena Protocol at various stages of the workshop. It was clearly identified as a consensus agreement, and that there were many issues that AOSIS would have preferred to see included. However, the Protocol does provide an international legal basis for further work and for domestic legislation. Participants agreed that all Members should be encouraged to sign, so as to allow them to participate in preparatory work through the ICCP, and in capacity building efforts such as that proposed by UNEP and GEF. In this regard they encouraged and supported the expansion and extension of the GEF/UNEP Biosafety Pilot Project to facilitate greater participation from among SIDS. A regional approach that builds on national action was recommended as an effective means of addressing biosafety issues within the context of the GEF/UNEP project. Good experiences in

regional cooperation have been documented for the Pacific and for the Caribbean in other fields, exemplified by the PICCAP and CPACC projects.

5. Participants noted the utmost importance of adequate public awareness on biosafety issues. They also noted that public awareness could also result in a public revolt against LMOs, but recognized that the main duty of the competent authorities is to be informative and not prescriptive.

6. The Participants endorsed the offer made by Cuba for the provision of training in biosafety and biotechnology, and requested the Chairman of AOSIS to explore effective modalities for AOSIS Members to benefit from this generous offer by Cuba. In addition, the meeting requested the Chairman of AOSIS to explore ways and means of making this offer an integral part of the implementation of the Small Island Developing States Technical Assistance Program as outlined in the Barbados Program of Action.

7. In relation to the Clearing House Mechanism, many participants called for a simpler structure and an more user-friendly approach, so as to facilitate the greater and more effective participation by SIDS.

8. Participants noted that a needs assessment for SIDS should be undertaken as an integral part of the development of the Clearing House Mechanism.

General approaches to the ICCP negotiations

1. Participants agreed that there was a renewed necessity to accept the challenge placed by AOSIS Heads of State and Government at the 3rd AOSIS Summit, namely to cooperate in international negotiations as a group, particularly in areas where there is a distinct concern of the SIDS. In this regard, it was agreed that the participants from AOSIS Members would meet daily at an appropriate time in order to discuss the daily agenda and come to common positions. These common positions will then be advocated by a designated spokesperson for the group in that particular meeting, backed up by other members as appropriate. The participants agreed that the group would meet at the first available time during the first day of the meeting. It was also noted that AOSIS views should be forcefully advocated within other groups, such as the Like-Minded Group.

2. Participants welcomed the briefing document prepared by SPREP as a timely contribution to inter-regional cooperation for AOSIS. This document was commended as an important information resource for the delegates to the ICCP. The workshop requested the Inter-regional Advisor for SIDS assist with the distribution of this document, and also to coordinate the meetings referred to above, in consultation with the Acting Chairman of AOSIS, so as to maximize the impact in the negotiations for the group.

3. Participants agreed that the decisions to be prepared by the ICCP regarding the preparatory work before the Protocol enters into force should highlight the recommendations listed below, in particular the inclusion of the phrase where appropriate [take into account the need for] "in particular the least developed and small island developing States among them,"

Information sharing

1. Participants noted the paper by the CBD Secretariat on information sharing (UNEP/CBD/ICCP/1/3). They considered and discussed the conclusions and recommendations outlined on page 6 and 7 of the Working Paper and agreed in principle, with the recommendations by the CBD Secretariat. The following issues were noted as necessary clarifications:

Paragraph 19:

The word "central" in the third line of this paragraph is considered insufficient to reflect the importance of the Biosafety Clearing-House to AOSIS members, given its role in assisting SIDS in capacity building. The view was expressed that the word "critical" should be substituted.

Participants considered that the "distinctly different roles" of the clearing-house mechanism ("CHM") and the Biosafety Clearing-House ("BCH") were not actually clearly defined. It is a priority for AOSIS Members for the roles of these two entities to be clearly identified. On page 25, paragraph 50 of the Working Paper, reference is made to this and related issues as "*Possible* Issues for Further Discussion". It was proposed that AOSIS members at the ICCP advocate that such further discussion be a priority as opposed to a possibility.

As SIDS have very limited resources, it is important for SIDS to avoid duplication. It was further noted that no member of AOSIS attended the Meeting of Technical Experts. The workshop took note of the information provided by the CBD Secretariat and welcomed the facilitation of the participation of all AOSIS Members in the regional workshops. They noted that very few nominations had been forthcoming from AOSIS Members, and encouraged AOSIS Members to make such nominations in the future. It was also suggested that smaller technical meetings should have participation by AOSIS, and that the selected experts should attend these Meetings on behalf of AOSIS. The special needs of SIDS can then be incorporated in the recommendations to the ICCP regarding the respective roles of the CHM and the BCH.

Paragraph 22:

Participants expressed the need for the ICCP to identify which international organizations are relevant to the designation of pharmaceutical LMOs for human use.

Paragraph 35:

The second line of this paragraph should be amended by inserting after the words "developing countries" the words "in particular, those least developed and small island developing states among them," so as to be consistent with the wording of the Biosafety Protocol.

Paragraph 37:

[Paragraph 37 refers to the "estimate of resources" required to establish the pilot phase of the Biosafety Clearing-House. Reference was made to UNEP/CBD/ICCP/1/3/Add.1 and in particular, paragraph 6]

The second line of the third sentence of paragraph 6 should be amended by inserting after the words "developing countries", the words "in particular, those least developed and small island developing states among them," so as to be consistent with the wording of the Biosafety Protocol;

Participants noted the omission of the costs of data management and information-sharing activities of SIDS in the estimates. It was considered most important that the special needs of SIDS should be accepted, and that consequently there should be a budget line to allow for this in these estimates. This requires inter alia sufficient funds to cover the attendance of all AOSIS members to the regional meetings on the BCH and the Technical experts review meeting in order to ensure that AOSIS concerns are addressed and incorporated into the roles of the CHM and BCH.

Participants attempted to clarify what the separate roles of the CHM and BCH should be in respect of the special needs of SIDS, but were not able to in the time available. In order to reach a clear consensus on this matter, it was agreed to discuss it in further detail as part of the ongoing work of AOSIS in biosafety. Concerns were raised at the necessity for the two entities to be complementary. Questions were also raised as to whether there was a risk of the information provided to the CHM being 'biased'. Developed countries which have the capacity to produce scientific and technical information, may choose not to submit certain information (or their nationals may not make such information available) regarding LMOs that a party (or its national) is intending to export in the future.

<u>Capacity building</u>

1. It was noted that most analyses of the current legislation in most SIDS points to a limited capacity to put in place adequate biosafety mechanisms or regimes. There is also a limited ability to carry out risk assessments in general, and a consequent inability to manage risks in a manner conducive of the safety requirements outlined in the Cartagena Protocol. It was also noted that this extends to public awareness at all levels of society on biosafety and biotechnology issues. In addition there are limited guidelines and regulations that may be of relevance, and which would assist as enforcement measures for biosafety regulations.
2. Participants decided that the following issues should be taken into account as fundamental recommendations:

- the creation of national centers for information exchange;
- the creation of regional biosafety and biotechnology centers of excellence, and where possible these should build on existing capacities, bearing in mind the need for a careful balance between the scientific and technical advice with legal and regulatory frameworks;

- the establishment of a SIDS Biosafety Network, building on the existing infrastructure and linkages provided by SIDSNet;
- the need to focus on strengthening countries ability to carry out risk assessments, to evaluate and control risks, and to thoroughly manage these risks in the short and long term; and
- the need to also focus on the training and education needs of SIDS in the determination of their needs in complying with and effectively implementing the Cartagena Protocol.

3. Participants felt that there was also a need to look at the unique situation of SIDS when providing guidance on the development of legislation on biosafety. This is particularly relevant in the context of any discussion on transit of LMOs.
4. The workshop welcomed the generous offer by the Government of Cuba to host an international workshop on capacity building on biosafety for developing countries in 2001.
5. Participants also agreed to the following specific textual proposals in relation to the CBD Secretariat working paper on capacity building (Doc: UNEP/CBD/ICCP/1/4):

- Add in Paragraphs 12, 35, 46, 53:

..., in particular the least developed and small island developing States among them," and...

INSTITUTION BUILDING

Needs assessment and Biosafety framework planning:

- Add bullet "g) Identify and create plans to make linkages to related national and international environmental programs."

Long-term regime building/maintenance

- Add bullet "d) Develop/strengthen legal structures and instruments on Liability and redress."

RISK ASSESSMENT

General risk assessment capacities

- Modify bullet d) as follows: "Identification and capacity to understand relevant biotechnology processes and applications."

Science and socio-economic capacities

- Modify bullet a) as follows: "Analyse risks to conservation, protection and sustainable use of biodiversity"

- Modify bullet f) as follows: "Assess the value and roles of biodiversity to local and indigenous communities"

- Modify bullet g) as follows: "Cooperation on research and information on socio-economic considerations related to biodiversity"

RISK MANAGEMENT

General risk management capacities

- Modify as follows: "Understanding and ability to apply risk management tools to accepted preset standards in relevant biotechnology sectors."

Implementation of decisions

- Modify bullet b) as follows: "Monitoring actual environmental impacts as compare to the anticipated results"

- Add bullet "d) Emergency response capacity to mitigate risks presented by an intentional LMO introduction which has had unexpected and undesirable outcomes."

CROSS-CUTTING CAPACITIES

Data management and information-sharing

- Add bullet "d) Creation of national and regional centers for information exchange."

Involvement of stakeholders e.g. non-governmental organizations, local communities, private sector

- Modify bullet a) as follows: "Capacity to negotiate with and provide opportunity for stakeholders' involvement."

- Modify bullet b) as follows: "Process for stakeholders' consultation in development of risk assessment and management regimes."

- Modify bullet c) as follows: " Process for stakeholders' consultation prior to decision."

Regional capacity development

- Modify bullet c) as follows: "Training of human resources, including the creation of regional training centers."

- Modify bullet d) as follows: "Information sharing, including the creation of regional centers for information exchange and strengthening of existing regional training centers/institutions."

Decision-making procedures

1. Participants discussed in great detail the Secretariat paper on decision making procedures (Doc. UNEP/CBD/ICCP/1/5). However, no specific modifications were proposed.
2. Participants noted that the experience in other relevant conventions demonstrates the need for capacity building as being vital to their effective implementation. It is clear that for the Cartagena Protocol there will also be a need for procedures specifically designed to assist Parties with decision making in cases of import, export or domestic use of LMOs. Case studies and further workshops, including dissemination of information on these efforts were deemed to be important elements.

Handling, transport, packaging and identification

1. Participants agreed that the fundamental position of AOSIS should remain strongly supportive of the precautionary principle in relation to LMOs. It was also recognized that due consideration must be given to socio-economic implications, especially for the fragile ecosystems of the Small Island Developing States.
2. Participants noted the necessity to have internationally recognized standards developed, and that these should be constructed with due consultations with relevant and recognized institutions, such as ISO, Codex Alimentarus, WIPO, etc. It was further noted that AOSIS Members should be enabled to participate in the development of these standards, and that there may be a need to further adapt these standards for national and regional purposes in SIDS.
3. Participants expressed concern that there is little information available on current imports of LMOs into SIDS, and that many countries were not comfortable with the possibility that they may already be importing LMOs in an unsafe manner. It was noted that the segregation of LMO produce and non-LMO produce during transport should be given consideration at the ICCP. AOSIS Members would support practical and pragmatic solutions that would enable such separate treatment to be given.
4. Participants also considered that the integrity of the materials used in packaging should conform to internationally approved standards for handling and transport.
5. It was noted that a distinction should be made between LMO-FFPs and LMOs as such by appropriate labeling and documentation.
6. AOSIS should consider the possibilities for reaching agreements with other regional groups on the issue of labeling standards. While it will be necessary to leave all options open, it was felt that the EU approach to labeling standards most closely conformed with the views of the participants. In this regard it was also considered that minimum requirements for labeling should be advanced. For example, the group favors the establishment of a recognizable symbol in addition to a statement identifying the product as containing LMOs and/or LMO products. This will assist the public in recognizing and identifying LMOs and LMO products. This labeling information should also include provisions on approved uses.

7. As a general point of principle, the participants also endorsed the need for further support and facilitation of public awareness and education programs on LMOs in SIDS, and requested the Chairman of AOSIS and the relevant international and regional organizations to cooperate in this regard, and to seek financial and technical support from donor Governments.
8. Participants also made the following recommendations for consideration at the national level:

- the development of guidelines and standards for domestic handling, transportation and use of LMOs;
- the development of appropriate domestic legislation to address LMOs in transit;
- the development of national legislation to cover LMOs as well as products thereof; and
- the development of appropriate risk management procedures.

Future planning and activities

1. Participants encouraged the Chairman of AOSIS to continue his efforts to seek donor support for further AOSIS consultations and workshops.
2. It was agreed to request the Chairman of AOSIS to establish a biosafety discussion group and network of experts and focal points among AOSIS Member States. This will assist AOSIS with information sharing and the development of position papers in the inter-sessional periods. SIDSNet should eventually be the vehicle for promoting this cooperation. There should also be provisions for scientific and technical advice from among AOSIS Members who have capacities to do so, and the Chairman of AOSIS is encouraged to find suitable modalities for such an effort.
3. Participants stressed the need to avoid duplication of efforts and suggested that a close consultation with the CBD Secretariat, the GEF and other UN agencies would be necessary.